

Message Text

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PAGE 01 STATE 023590

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TO AMEMBASSY PANAMA IMMEDIATE

C O N F I D E N T I A L STATE 023590

LIMDIS FOR ASSISTANT SECRETARY ROGERS

FOL RPT LIMA 0929 ACTION SECSTATE 30 JAN.

QUOTE

O N F I D E N T I A L LIMA 0929

LIMDIS

FOR ARA

EO 11652: GDS

TAGS: EIND, BDIS, EINV, PFOR, PE

SUBJECT: MARCONA - MEETING OF TECHNICAL COMMISSION ON
JANUARY 28

REF: LIMA 0902

1. TECHNICAL LEVEL COMMISSION MEETING EVENING OF JANUARY 28
WAS DEVOTED TO SIDE-RANGING DISCUSSION OF MINING AND CUSTOMS
CHARGES AGAINST COMPANY. ING. YATACO, DIRECTOR GENERAL OF
MINING, BEGAN DISCUSSION OF MINING CLAIMS WITH BRIEF DIS-
CUSSION OF ROYALTY PAYMENTS FORMULA USED BY GOP, WHICH ON
PELLETS AMOUNTS TO 0.25 TIMES (FOB PRICE PER TON MINUS
\$6.50). YATACO NOTED THAT FOB PRICE INCREASED SUBSTANTIALLY
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PAGE 02 STATE 023590

IN 1975 TO APPROXIMATELY \$15.50 PER TON FROM \$10 IN 1974.

ROYALTY PAYMENTS THEREFORE JUMPED TO \$2.25 LAST YEAR. THIS FIGURE SURPASSED NORMAL FIGURE OF 92 CENTS AND GOP THEREFORE HAD TO READJUST ROYALTY GIVEN THE NEW HIGHER PRICE OF PELLETS. READJUSTMENT OF ROYALTIES, NORMALLY MADE AT END OF EVERY CALENDAR YEAR, HAD NOT BEEN MADE FOR CY 1975 BECAUSE OF THE EXPROPRIATION. YATACO SET NO FIGURE ON TOTAL AMOUNTS INVOLVEMENTS. YATACO ALSO MENTIONED THERE ARE OTHER MINOR ITEMS WHICH WERE NO LONGER ISSUES BETWEEN GOVERNMENTS.

2. ING. SALAMON, OF MINISTRY OF MINES, THEN LED DISCUSSION OF MINING OPERATIONS AND CHARGED THAT COMPANY'S MINE EXPLOITATION VIOLATED GOOD MINING PRACTICES. INTER ALIA, HE NOTED THAT COMPANY HAD ACCUMULATED WASTE AT EDGE OF PITS WHICH COULD CAUSE FUTURE MINE INSTABILITY, ALTHOUGH HE ADMITTED MINE HAD NEVER HAD MAJOR SLIDES. HE CRITICIZED COMPANY'S PLACEMENT OF WASTES AT EDGE OF PITS. HE ALSO SAID THAT PERUVIAN EXPERTS HAD SUGGESTED PIT ANGLES OF 46-48 DEGREES, WHEREAS COMPANY HAD USED ANGLES AVERAGING 52 DEGREES AND, IN SOME RARE CASES, 70 DEGREES, A CLEARLY "UNSAFE" PRACTICE. WHEN QUESTIONED AS TO WHY GOP HAD ALLOWED SUCH PRACTICES OVER TWENTY-YEAR PERIOD, YATACO REPLIED LAMELY THAT UNTIL 1973 THE CORPORATION DE DANTA WAS RESPONSIBLE FOR REGULATED MARCONA OPERATIONS. HOWEVER, SINCE SANTA WAS NOT A MINING COMPANY IT WAS NOT QUALIFIED TO MAKE PROFESSIONAL JUDGEMENTS. THIS FACT, HOWEVER, DID NOT ABSOLVE COMPANY FROM FOLLOWING GOOD MINING PRACTICES. MINING OFFICIALS THEN SAID THAT FRENCH CONSULTING FIRM WHICH HAD STUDIED MARCONA OPERATIONS, WHILE NOT SPECIFICALLY CRITICIZING COMPANY'S SAFETY PROCEDURES, HAS LEFT "DOOR OPEN" TO QUESTIONS ABOUT COMPANY'S SAFETY PROCEDURES. GOP, FOR ITS PART, COULD NOT PERMIT EVEN SMALL RISK REGARDING MINE SLIDES. SALAMON INTERJECTED THAT FRENCH FIRM HAD IN FACT STATED SLIDES WERE POSSIBLE WHEN PIT DEVELOPMENT REACHED LOWEST LEVELS. USG TEAM ASKED FOR COPY OF FRENCH CONSULTANTS' REPORT, WHICH MARCONA HAD PREVIOUSLY REQUESTED AND WAS UNABLE TO OBTAIN FROM GOP. MARCHAND SAID PERUVIANS WOULD ENDEAVOR TO MAKE A COPY AVAILABLE TO US. FINALLY, U.S. TEAM POINTED OUT THAT MARCONA HAD CONFIDENTIAL

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PAGE 03 STATE 023590

AN INTERNATIONAL REPUTATION TO PROTECT AS A LEADER IN THE MINING FIELD AND THAT VIOLATIONS OF GOOD MINING PRACTICES WOULD BE INCONSISTENT WITH LONGER TERM COMPANY OBJECTIVES.

3. MINING OFFICIALS ALSO CRITICIZED COMPANY ABOUT LOCATION OF PITS AND GENERAL DUMPING OF WASTE, STATING THAT LONG-RANGE DEVELOPMENT OF THE TOTAL MINERALIZED

AREA WOULD REQUIRE, FOR THE FUTURE, REMOVAL F SUB-STANTIAL WASTE WHICH IS NOW PLACED NEAR VARIOUS PITS. U.S. TEAM POINTED OUT THAT MINERAL DEPOSITS IN QUESTION WERE LOW GRADE AND NOT ECONOMICALLY FEASIBLE TO MINE UNDER PRESENT AND FORESEEABLE CONDITIONS.

4. FINAL CRITICISM REGARDING MINE DEVELOPMENT CONETERED ON FAC THAT MINISTRY OF ENERGY AND MINES IN 1973 SAID THAT MARCONA WAS CUTTING VERY SHARP ANGLES ON ITS PITS, WHICH WOULD MAKE IT DIFFICULT TO DEVELOP LOWER LEVELS OF PITS AT LATER STAGE. USG TEAM POINTED OUT THAT PIT ANGLE DIRECTLY RELATED TO SAFETY FACTOR. IN ADDITION, THE STEEPER THE ANGLE THE LOWER THE COST OF PRODUCTION BECAUSE OF RESULTS IN LESS EXTRACTION OF WASTES. GIVEN THE FACT THE MARCONA'S JUDGEMENT, AND THOSE OF ITS OUTSIDE CONSULTANTS, WERE THAT THE PRESENT ANGLE OF INCLINATION WAS SAFE FOR NOW AND FOR THE FUTURE THE GOP COMPLAINT SEEMED QUESTIONABLE.

5. CUSTOMS OFFICIALS THEN DISCUSSED OUTSTANDING CHARGES AGAINST COMPANY ON CUSTOMS DUTIES DUE TO GOP. FIRST. COMPANY HAD MADE ERRORS IN CALCULATION DURING LAST FOUR YEARS AMOUNTING TO SOLES 800,000. SECOND, COMAPAY OWED CUSTOMS SOLES 1,300,000 FOR SHIPMENT OF 66,621 TONS OF ORE ON JULY 13, 1975. THIRD, CUSTOMS OFFICIAL MENTIONED 4 PERCENT C&F SALES COMMISSION PROBLEM AS IT APPLIES TO CUSTOMS DUTIES DUE. USING 4 PERCENT COMMISSION RATE AS A BASE, THE TAXABLE BASE UPON WHICH CUSTOMS HAS CALCULATED DUTIES IS DOLLARS 27 MILLION. DUTIES DUE ON THAT BASE AMOUNT TO SOLES 21-22 MILLION (500 THOUSAND DOLLARS). CUSTOMS OFFICIAL STRESSED THAT COMPANY CAN MAKE COUNTERCLAIM THROUGH PERUVIAN COURT SYSTEM IF IT DISPUTES THESE FIGURES. HE ALSO NTED CONFIDENTIAL

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PAGE 04 STATE 023590

THAT THE DOLLARS 27 MILLION BASE IS THE SMALLEST ACCEPTABLE FIGURE TO CUSTOMS. USG TEQM REPLIED THAT SINCE TECHNICAL LEVEL COMMISSION HAD EXPLAINED THAT IT WOULD NOT BE POSSIBLE TO ADDRESS THE 4 PERCENT ISSUE IN FULL UNTIL MEETING FOLLOWING DAY, WE WOULD RESERVE COMMENTS ON THE 4 PERCENT COMMISSION ISSUE UNTIL THEN.

6. TECHNICAL LEVEL COMMISSION MEETING SCHEDULED FOR THURSDAY MORNING, AT WHICH TIME 4 PERCENT COMMISSION ISSUE AND PORT CHARGES ARE SCHEDULED TO BE DISCUSSED.

7. COMMENT: OUR OBJECTIVE REMAINS TO COMPLETE TECHNICAL DISCUSSIONS ON TAX AND OTHER CLAIMS AS QUICKLY AS POSSIBLE TO CLEAR THE WAY FOR HARD BERGAINING ON A BOTTOM-LINE FIGURE.

DEAN

UQNUOTE KISSINGER

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